

The commission declines to adopt TPPA’s recommendation to diminish the scope of or remove subsection (e). The commission disagrees that this rule should focus exclusively on weather emergency preparedness. While the report required under Tex. Util. Code §186.007 focuses on weather emergency preparedness, §186.007(a-1)-(4) directs the commission to make recommendations on improving emergency operations plans in order to ensure the continuity of electric service.

Oncor recommended adding paragraph (e)(5) to include the requirement of PURA §39.918(g) that mandates a transmission and distribution utility to provide in its EOP “a detailed plan for the use of [facilities that provide temporary emergency electric energy]” as described under PURA §§39.918(b)(1)-(2) . Oncor provided draft language regarding the same.

Commission Response

The commission agrees with Oncor that the proposed rule should include language to reflect the requirement under PURA §39.918(g) for a transmission and distribution utility to include in its EOP a detailed plan for the use of facilities that provide temporary emergency electric energy. The commission adopts subparagraph (e)(1)(H) accordingly.

Proposed §25.53(e)(1)(A) and (e)(1)(B) – Cold Weather and Hot Weather Emergency Annexes (Transmission and Distribution)

Proposed subparagraphs (e)(1)(A) and (e)(1)(B) list the requirements for cold weather and hot weather emergency annexes, respectively, that must be included within an EOP for transmission

and distribution facilities owned by an electric cooperative, an electric utility, or a municipally owned utility.

ETEC opposed the inclusion of a mitigation plan under (e)(1)(A)(i), (e)(1)(B)(i), (e)(2)(A)(i), and (e)(2)(B)(i) as inconsistent with subsection (d)'s requirement that "an entity's EOP ...outline the entity's response to the types of emergencies specified." ETEC recommended that the requirement under (e)(1)(A)(i) and (e)(1)(B)(i) for an EOP to include a mitigation plan be removed, because mitigation considerations occur prior to the scope of an emergency response plan. ETEC also argued that federal agencies such as FEMA require mitigation plans to be separate from the EOP and used as reference. Alternatively, ETEC recommends modifying the language for the proposed clauses (e)(1)(A)(i) and (e)(1)(B)(i) to specify that operational plans are intended to restore power caused by a cold or hot weather emergency.

If the commission rejects ETEC's alternative recommendation regarding proposed (e)(1)(A)(i) and (e)(1)(B)(i), ETEC further recommended specifically excluding non-TSPs from meeting the requirements of §25.55 through the addition of "if applicable" to the proposed rule clauses to remove any ambiguity.

Consistent with its comments for proposed clause (e)(1)(A)(ii) and proposed subparagraph (e)(1)(B), Oncor recommended that the separate cold weather and hot weather annexes under proposed subparagraphs (e)(1)(A) and (e)(1)(B) be combined into a single "Emergency Restoration" annex as such operational plans are essentially the same. Oncor provided draft language consistent with its recommendation.

Commission Response

The commission agrees with ETEC that mitigation plans should remain separate from an entity's EOP. The commission also agrees with Oncor's recommendation to combine the required cold weather and hot weather annexes into a single requirement. Paragraph (e)(1) is revised accordingly.

Proposed §25.53(e)(1)(A)(i) and (e)(1)(B)(i) – Separate and Distinct Operational Plans

Proposed clauses (e)(1)(A)(i) and (e)(1)(B)(i) require cold weather and hot weather annexes to contain operational plans that are separate and distinct from the operational plans developed under §25.55(relating to Weather Emergency Preparedness).

LCRA, TPPA, Sharyland, and TEC commented on the ambiguity of the term “separate and distinct” in proposed clauses (e)(1)(A)(i) and (e)(1)(B)(i) as the term relates to weather emergency preparedness plans required under §25.55.

LCRA and TPPA requested the commission clarify the term “separate and distinct,” as it relates to §25.55 as it appears in proposed clauses (e)(1)(A)(i) and (e)(1)(B)(i) regarding cold and hot weather annexes, respectively. LCRA argued the term is unclear as to whether it is administrative or substantive in nature. LCRA contended that, if interpreted as a procedural requirement administratively, a §25.55 plan may not be used to satisfy proposed §25.53, alternatively, if interpreted as a substantive requirement, a utility may either not reference or must be entirely dissimilar to plans created under §25.55. LCRA proposed draft language for the rule merging the

cold and hot weather annex and deleting the requirement that such an annex be “separate and distinct” from the report required under §25.55.

TPPA requested the commission elaborate on “whether the reference to ‘separate and distinct’ is meant to mean separate and distinct operational plans or separate and distinct weather emergencies.” TPPA maintained that if separate and distinct operational plans is the intended meaning, that would require utilities to prepare two different response procedures which is detrimental to emergency response. If separate and distinct weather emergencies is the intended meaning, TPPA argued it is therefore not clear “what kinds of cold weather emergencies entities should plan for, but not weatherize for.” Sharyland recommended that “separate and distinct” be deleted from clauses (e)(1)(A)(i) and (e)(1)(B)(i).

Sharyland, like LCRA, requested the commission make clear whether the operational plans developed under proposed §25.53 must be “separate and distinct” from operational plans developed under §25.55 or future rules relating to §25.55. In Sharyland’s view, operational plans developed under §25.55 and future rules relating to it should be a “major component of hot and cold weather emergency preparedness standards” under (e)(1)(A) and (e)(1)(B), respectively. Therefore, absent any difference, the phrase “separate and distinct” should be deleted from the proposed clauses. Alternatively, if the commission does not adopt Sharyland’s recommendation to delete “separate and distinct” from clauses (e)(1)(A)(i) and (e)(1)(B)(i), Sharyland requests clarification as to why the weather emergency preparedness provisions of §25.55 should not be part of the hot and cold weather annexes of the EOP. TEC recommended that “separate and distinct” be deleted from clauses (e)(1)(A)(i) and (e)(1)(B)(i) as the term is unclear what

operational plans intended to mitigate the hazards of cold weather would be separate and distinct from those required under section §25.55. Additionally, TEC argued that the removal of the language would provide utilities with the flexibility to include operational plans that are appropriate for its EOP.

Commission Response

The commission acknowledges LCRA, TPPA, Sharyland, and TEC's concerns regarding the ambiguity of the requirement under subsection (e)(1) that the hot and cold weather annexes be "separate and distinct from the weather preparation standards required under §25.55."

The commission revises the rule to clarify that all entities are required to address weather emergencies in their EOPs in a manner that is not simply duplicative of the weather preparedness standards prescribed under §25.55. Specifically, the commission clarifies the intent of §25.53 is for an entity to adequately plan its actions immediately prior to and during an emergency. In contrast, §25.55 is intended to ensure long-term mitigation planning for entities to, among other things, weatherize facilities and assets during blue sky conditions. Therefore, a hot and cold weather annex submitted under §25.53 may necessarily include information from the required reports under §25.55, but unless the §25.55 report adequately addresses the immediacy requirement implicit in §25.53, it is insufficient for purposes of a hot and cold weather annex.

Proposed §25.53(e)(1)(A)(iii) and (e)(1)(B)(iii) – Pre- and Post- Weather Emergency Meetings (Transmission and Distribution)

Proposed clauses (e)(1)(A)(iii) and (e)(1)(B)(iii) both require pre- and post-weather emergency meetings for transmission and distribution facilities to review lessons learned from cold weather and hot weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency.

Sharyland, ETEC, TPPA, and TEC generally opposed, in whole or in part, the requirements of proposed clauses (e)(1)(A)(iii) and (e)(1)(B)(iii) for entities to hold pre- and post- cold or hot weather emergency meetings. Sharyland recommended proposed clauses (e)(1)(A)(iii) and (e)(1)(B)(iii) be revised with a condition that the meetings required under each clause be limited to when a significant interruption to electric service is expected or has already occurred. Sharyland elaborated, stating that there may be weather emergencies that either are not expected to or do not cause significant interruptions to the continuity of electric service and that requiring a meeting in such situations would be neither necessary nor productive. ETEC specifically opposed requiring a post-emergency meeting under proposed clauses (e)(1)(A)(iii) and (e)(1)(B)(iii) as “proposed new rule section (c)(1)(C) already contains a general requirement for an after-action report” and such a meeting would occur as a part of preparing the after-action report. ETEC proposed deleting “and post-” to proposed clauses (e)(1)(A)(iii) and (e)(1)(B)(iii) to clarify that separate, additional meetings are not required.

TPPA cautioned that pre-event meetings are not always feasible and recommended modifying proposed clauses (e)(1)(A)(iii) and (e)(1)(B)(iii) accordingly. TPPA also commented that it is

unclear the meetings required under (e)(1)(B)(iii), (e)(2)(A)(iv) and (e)(2)(B)(iii) “as required by an entity’s EOP, would be considered the activation of an EOP, which would itself generate additional reporting requirements.” TEC recommended the meeting requirements under (e)(1)(A)(iii) and (e)(1)(B)(iii) be changed to a reporting requirement describing a utilities’ “procedures to review lessons learned from past weather emergency incidents.” TEC argued that such a change would better effectuate the intent of the rule “without improperly dictating to electric cooperatives the number of meetings or manner in which a review is conducted.”

Commission Response

The commission declines to adopt the specific recommendations of Sharyland, ETEC, TPPA, and TEC for clauses (e)(1)(A)(iii) and (e)(1)(B)(iii) as the commission has substantively addressed these concerns under this heading and under heading (e)(2)(A)(iv) and (e)(2)(B)(iii). Specifically, the commission removes the requirements for pre- and post-event meetings and merges the hot and cold weather annex requirements into a single annex for both transmission and generation entities under proposed paragraph (e)(1) and (e)(2), respectively. This change corresponds with a revision of the merged cold and hot weather annexes to include in the required checklist for transmission facility personnel, lessons learned from past responses to a cold or hot weather emergency.

Proposed §25.53(e)(1)(C) – Load Shed Annex

Proposed subparagraph (e)(1)(C) lists the requirements for a load shed annex that must be included within an EOP.

TPPA opposed the inclusion of a load shed annex in the EOP and recommended deleting (e)(1)(C) from the proposed rule and claimed the Legislature recently affirmed that the commission “must provide discretion for entities to prioritize power delivery and power restoration of critical customers.” Alternatively, if the commission rejects TPPA’s proposal to remove the load shed annex from (e)(1)(C), TPPA recommended removing language permitting commission staff to request amendments under proposed paragraph (c)(4), as conflicting with the statutory language of SB 3, as discussed in that section.

Commission Response

The commission declines to remove the load shed annex requirement from the proposed rule, as requested by TPPA. It is imperative for all transmission and distribution utilities to have a procedure for load shed as part of the required annexes included in its EOP. The commission disagrees with TPPA that this conflicts with the language in SB 3 requiring the commission to provide discretion to entities to prioritize power delivery and power restoration among various critical customers. This rule does not direct how critical loads should be prioritized. The commission also disagrees that allowing commission staff to verify that the requirements of this subparagraph are met and requesting an amendment if they are not diminishes entities’ discretion with regards to load shed priorities.

OPUC recommended the commission add clause (e)(1)(C)(iv) which would additionally require “a procedure or plan for communicating with the public regarding impending load shed whenever possible during an emergency.” OPUC expressed understanding that public communication may not be possible in every situation but requested that an effective communication plan be in place

where possible in order to “warn and provide the public with valuable information regarding impending load shed events.”

Commission Response

The commission agrees with the importance of providing valuable information to customers and the public before and during emergencies, including load shed events. However, the commission declines to adopt OPUC’s recommendation to add a requirement in the rule for an electric cooperative, an electric utility, a municipally owned utility, or a transmission and distribution utility to include in its load shed annex “a procedure or plan for communicating with the public regarding impending load shed whenever possible during an emergency,” because it is redundant. Adopted subparagraph (d)(2)(A) of the rule requires an entity with transmission or distribution service operations to have procedures for communicating with the public, customers, and others during an emergency.

Proposed §25.53(e)(1)(C)(i) – Procedures for Load Shed

Proposed clause (e)(1)(C)(i) requires a load shed annex to contain procedures for controlled shedding of load for planned or forced interruptions of service.

Oncor and TNMP opposed the inclusion of the phrase “whether caused by planned or forced interruption of service” within (e)(1)(C) and recommended striking the language as, in their view, controlled load shedding is historically neither a ‘planned interruption’ or a ‘forced interruption’ and instead is a routine event. Oncor and TNMP explained that forced interruptions of service are generally not emergencies that initiate the EOP, as opposed to load shedding. Oncor specifically

argued that the proposed rule is also inconsistent with the definition of “forced interruptions” under §25.52 (relating to Reliability and Continuity of Service), which defines forced outages as “[i]nterruptions, exclusive of major events, that result from conditions directly associated with a component requiring that it be taken out of service immediately, either automatically or manually, or an interruption caused by improper operation of equipment or human error.” TNMP stated it did not oppose describing its load shed procedures under the (e)(1)(C)(i). Oncor and TNMP provided identical draft language for (e)(1)(C)(i) which deletes the reference to planned or forced interruption of service.

Commission Response

The commission modifies this provision by removing the phrase “whether caused by planned or forced interruption of service,” as requested by Oncor and TNMP. The commission emphasizes, however, that a load shed annex must include procedures for the controlled shedding of load, regardless of cause, during an emergency.

Proposed §25.53(e)(1)(C)(iii) – Procedures for Load Shed

Proposed clause (e)(1)(C)(iii) requires a load shed annex to contain a registry of critical load customers that must be updated at least annually, and contain procedures for maintaining an accurate registry, providing assistance to and communicating with critical load customers, and training staff with respect to serving critical load customers.

CenterPoint, Oncor, AEP, ETEC, and TPPA, opposed the requirement of (e)(1)(C)(iii) requiring a load shed annex to include a registry of critical load customers. Specifically, CenterPoint argued a critical customer registry would contain highly sensitive proprietary customer information and therefore should not be filed publicly or be a part of the EOP. CenterPoint also opposed the inclusion of a process for assisting critical customers in the event of an outage as vague and that an electric utility is not obliged to provide “assistance” to critical customers during an unplanned outage. Similarly, consistent with its confidentiality concerns with the requirement of proposed subparagraph (c)(1)(A) concerning full unredacted public disclosure of an EOP, AEP opposed filing an unredacted version of the registry of critical load customers with the commission for the same reasons.

ETEC also opposed filing an unredacted version of the registry of critical load customers with the commission as part of the load shed annex as contrary to the existing rule and therefore recommended removal of (e)(1)(C)(iii). ETEC argued that the proposed rule risked “unintended disclosure of sensitive and protected information (including medical information)” and does not provide much value in reviewing an entity’s EOP. ETEC recommended that the EOP should “continue to include the location of the registry and the methods used to maintain its accuracy” to ensure a list of critical customers is available to the entity’s operating personnel.

Consistent with its comments raising First Amendment concerns with commission staff review of communications plans under proposed paragraph (d)(5), TPPA raised the same First Amendment concerns specifically regarding proposed clause (e)(1)(C)(iii). In TPPA’s view, the proposed rule is beyond the scope of SB 3 in requiring a registry of critical load customers and creates a

“fundamental customer privacy issue that may prove counterproductive to critical load registration efforts.” Specifically, TPPA claimed that customers may be more reluctant to seek critical status if their information will be shared with a state agency. TPPA further argued that the requirement to update the load shed annex every time a customer is added or removed would be administratively burdensome. Lastly, TPPA maintained that the requirement would be misleading to critical load customers, as critical load status does not guarantee that load shed will not occur.

Oncor and TNMP also opposed the requirement of (e)(1)(C)(iii) and recommended it be removed from the rule. Oncor elaborated that only a small portion of critical load customers are totally exempted from load shed for health and welfare reasons and that the current rule conflicts with its business model and billing system and thus would be misleading to use and therefore not useful. Further, Oncor and TNMP argued that (e)(1)(C)(iii) is ambiguous and that the rule must clarify which “critical load customers” should be on the registry required under (e)(1)(C)(iii). Specifically, Oncor and TNMP requested clarification on whether the term “critical load customers” is inclusive of the all the customers identified in §25.52(c)(1)-(2) (relating to Reliability and Continuity of Service) and §25.497 (relating to Critical Load Customers) as well as Texas Water Code (TWC) §13.1396 (relating to Coordination of Emergency Operations) or whether the term is inclusive only of customers considered “critical loads” as defined in §§25.5(21) (relating to Definitions) and §25.52(c)(1).

Additionally, Oncor opposed the inclusion of the phrase “directly served, if maintained by an electric utility, an electric cooperative, or a municipally owned utility” as it appears to modify “critical load customers” and is thus unclear. Oncor stated it is “not responsible for and has no

knowledge of critical load customers that may be served behind a wholesale distribution point of delivery.” Oncor emphasized that such communication informs wholesale customers of a load shed event, and it is “incumbent on electric providers...to communicate with their retail customers.” Oncor recognized that the current version of §25.53 includes a similar provision, but expressed that the term is undefined and maintained that “the primary assistance utilities provide to critical load customers is the restoration of their electric service.” TNMP expressed concern that including the list of critical customer names within the load shed plan could be confusing to critical customers. Specifically, inclusion on the critical customer list does not ensure exemption from load shed except for customers that are determined to be critical to public health, community welfare, or supporting the integrity of the electric system, and thus prioritized. TNMP further recommended that the critical load customer registry should be included in a separate, dedicated annex to avoid procedural confusion.

Commission Response

CenterPoint, ARM, ETEC, and TPPA’s concerns regarding confidentiality are substantively addressed by the commission’s revision to proposed paragraph (c)(1)(A) permitting a summary of the EOP and full redacted EOP to be filed with the commission, as addressed under headings (c), (c)(1), and (c)(1)(A). Further, the commission agrees with TNMP, Oncor, and TPPA’s recommendations and revises the language of adopted clause (e)(1)(C)(iii) to clarify that an entity must only submit a procedure for maintain an accurate registry of critical load customers. The commission further modifies the requirement to clarify that this registry must include critical load customers as defined under 16 TAC §25.5(22), §25.52(c)(1)-(2) and §25.497 and TWC §13.1396. The commission also adds language that

this procedure must include the entity's process for coordinating with government and service agencies as necessary during an emergency.

Proposed §25.53(e)(1)(E) – Wildfire annex

Proposed subparagraph (e)(1)(E) requires an electric cooperative, an electric utility, a municipally owned utility, or a transmission and distribution utility to include in its EOP a wildfire annex for its transmission and distribution facilities.

Consistent with its recommendations for subparagraphs (e)(1)(A)(i) and (e)(1)(B)(i) requiring a cold and hot weather emergency response annex to be included in the EOP, ETEC recommended limiting clauses (e)(1)(A)(i) and (e)(1)(B)(i) to wildfire annexes only and deleting the reference to a mitigation plan for hazards associated with wildfires.

Commission Response

The commission agrees with ETEC's recommendation for proposed (e)(1)(E). Consistent with the commission's response to ETEC's recommendations for proposed subparagraphs (e)(1)(A)(i) and (e)(1)(B)(i), the commission agrees that mitigation plans are separate from an EOP. The commission accepts ETEC's proposed revision to (e)(1)(E).

TPPA recommended the requirement for a wildfire emergency annex under (e)(1)(E) be limited to "transmission and distribution entities serving counties predominantly of 'Medium to High Risk' or 'High Risk,' as described by Texas A&M Forest Service's Texas Wildfire Risk Explorer or an alternative source" in order to more effectively allocate a utility's resources.

Commission Response

The commission declines to adopt TPPA's recommendation to qualify the requirement for a wildfire emergency annex under proposed (e)(1)(E). Texas A&M Forest Services' Texas Wildfire Risk Explorer identifies most counties as at least "Medium to High Risk." Even if the commission accepted the recommendation to limit (e)(1)(E) to "counties predominantly of 'Medium to High Risk' or 'High Risk,'" the challenge becomes defining "predominantly." Further, the commission agrees that organizational needs vary by entity, as do potential hazards and threats. Accordingly, adopted subsection (d) provides that if an entity deems that a certain provision does not apply to an entity, including the requirement for a wildfire emergency annex, the entity is able to include an explanation in its EOP.

Proposed §25.53(e)(1)(G) and (e)(1)(H) – Cybersecurity Annex and Physical Security Annex (Transmission and Distribution)

Proposed subparagraph (e)(1)(G) and (e)(1)(H) requires an electric cooperative, an electric utility, a municipally owned utility, or a transmission and distribution utility to include in its EOP for its transmission and distribution facilities, a cybersecurity and a physical security annex.

CenterPoint, Oncor, Sharyland, AEP, and TNMP opposed the inclusion of (e)(1)(G) and (e)(1)(H) in the proposed rule and recommended the subparagraphs be deleted. CenterPoint stressed that "the information...contained in these annexes is too sensitive to be filed in unredacted form, even under seal." CenterPoint expressed willingness to provide commission staff access to such annexes upon request but argued that such annexes should not be filed. Oncor argued that cybersecurity

and physical security are addressed by other means via implementation of SB 64, SB 936, §25.367 (relating to Cybersecurity Monitor), and NERC Reliability Standards. Sharyland further cited Department of Energy reporting requirements as a pre-existing reporting obligation. AEP generally expressed its opposition citing that the proposed provisions are unnecessary “due to regulation and monitoring by multiple other existing means and the sensitivity of the subject matter.”

TNMP emphasized the redundancy of filing cybersecurity and physical security annexes due to pre-existing NERC requirements and further argued that the sensitive nature of the system and operational data should preclude public filing in order to preserve grid security. TNMP alternatively recommended that if the commission preserves the requirements of (c)(1)(G) and (e)(1)(H), that the commission permit utilities to file a “summary description” of each. SPS opposed the inclusion of proposed subparagraphs (e)(2)(G)-(H) in addition to (e)(1)(G)-(H) citing confidentiality and disclosure concerns. Unlike TNMP, SPS opposed providing a summary of the annexes citing compliance with NERC requirements and separate fulfillment of disclosure with the commission under §25.367. SPS concluded that the EOP is operationally based and therefore should not include sensitive information. TCPA emphasized that the cybersecurity annex under proposed subparagraph (e)(1)(G) should be “carefully scoped to avoid heightened risks associated with public disclosure” and recommended removal of the requirement for “any additional annexes as needed or appropriate to the entity’s particular circumstances” as duplicative. For proposed subparagraph (e)(1)(H) specifically, ETEC argued that it is unclear “what type of physical threat the commission is envisioning.” Specifically, ETEC commented that a physical security threat like sabotage is normally affects a single site and would not require activation of the EOP. ETEC

continued that the EOP is intended for larger-scale events and, absent further clarification by the commission, recommended deletion of subparagraph (e)(1)(H). However, ETEC supported the inclusion of subparagraph (e)(2)(H) for generation assets and highlighted the importance of physical security for such facilities.

Commission Response

The commission understands the sensitivity of cyber and physical security annexes and agrees with the disclosure, confidentiality, and general concerns of CenterPoint, Oncor, Sharyland, AEP, TNMP, SPS, TCPA, and ETEC. As discussed under heading (c), the commission revises the rule to require an entity to file a summary of the EOP with citations identifying where the entity's plan addresses the rule's minimum requirements, including cyber and physical security annexes, and a complete copy of the plan with the confidential portions removed. The commission further agrees with CenterPoint's recommendation that a copy of such annexes be made available to the commission for review upon request. The rule does not require an entity to develop emergency procedures that might conflict with existing NERC regulatory standards but does provide the commission the opportunity to review and analyze those plans as part of preparing its report to the Legislature.

Proposed §25.53(e)(2) – Required Annexes (Generation)

Proposed paragraph (e)(2) is the header section for the list of annexes an electric cooperative, an electric utility, a municipally owned utility, or a PGC must include in its EOP for its generation resources.

AEP, Oncor, CenterPoint, and TNMP commented that the annexes required under proposed paragraph (e)(2) for generation entities are redundant due to pre-existing reporting obligations under PURA §39.918(g). AEP argued that failing to exclude emergency generation facilities authorized under PURA §39.918 from ordinary “generation resources”, would require TDUs to provide numerous, superfluous, and redundant annexes as emergency power restoration facilities are authorized to be used only in cases when widespread outages are already occurring.

AEP further contended that the proposed rule does not address the statutory requirement of PURA §39.918(g) which “requires a TDU that leases and operates facilities under PURA §39.918(b)(1) or that procures, owns, and operates facilities under PURA §39.918(b)(2) to include in the utility’s EOP a detailed plan on the utility’s use of those facilities.” Oncor and TNMP also expressed redundancy concerns, arguing that emergency power generation resources under PURA §39.918 should not be considered “generation resources” for paragraph (e)(2) and instead recommended the facilities be explicitly excluded. Oncor and TNMP argued that a restoration plan exclusive to emergency power generation resources would govern any operational plans and requirements for such facilities and therefore there is no need to develop separate plans and annexes for purposes of (e)(2)(A) through (I) as such matters have already been addressed.

Accordingly, AEP, Oncor, CenterPoint, and TNMP provided draft language specifically excluding generation resources authorized under PURA §39.918 from the annex requirements of proposed paragraph (e)(2). TNMP also provided draft language for paragraph (e)(2) and proposed new paragraph (e)(6) to provide for PURA §39.918(g) which requires a TDU that leases, operates, or

owns facilities under §39.918(b) to include “a detailed plan for the use of those facilities” in its emergency operations plan.

Commission Response

The commission agrees with AEP, Oncor, TNMP, and CenterPoint that the proposed rule should include language to reflect the requirement under PURA §39.918(g) for a transmission and distribution utility to include in its EOP a detailed plan for the use of facilities that provide temporary emergency electric energy. The commission also agrees that the requirement should not result in a transmission and distribution utility filing superfluous or redundant plans. The commission revises the rule as recommended by AEP and TNMP.

Proposed §25.53(e)(2)(A) and (e)(2)(B) – Cold Weather and Hot Weather Emergency Annexes (Generation)

Proposed subparagraphs (e)(2)(A) and (e)(2)(B) require entities to file cold and hot weather annexes that include operational plans that are “separate and distinct” from the weather preparations required under §25.55.

TCPA and TEC argued that the requirement that these operational plans be “separate and distinct” is ambiguous and should be removed. TEC argued the phrase is confusing as it is unclear how such plans would be “separate and distinct” from plans required under §25.55 (relating to Weather Emergency Preparedness). TCPA argued that subparagraphs (e)(2)(A) and (e)(2)(B) significantly

overlap with the planning requirements of §25.55 and recommended that preparations made under §25.55 should be able to fulfill the requirements of (e)(2)(A) and (e)(2)(B).

Commission Response

Consistent with the commission’s response to similar concerns raised under clauses (e)(1)(A)(i) and (e)(1)(B)(i), the commission agrees with the assessments of TCPA and TEC regarding the ambiguity of the requirements in the proposed rule that the hot and cold weather annexes be “separate and distinct from the weather preparation standards required under §25.55.” The commission revises the rule to remove these requirements to provide entities with necessary discretion and to avoid unintentionally creating dual standards.

Proposed §25.53(e)(2)(A)(iv) and (e)(2)(B)(iv) – Cold Weather and Hot Weather Pre- and Post-Emergency Meetings (Generation)

Proposed clauses (e)(2)(A)(iv) and (e)(2)(B)(iv) both require pre- and post-weather emergency meetings for generation resources to review lessons learned from cold weather and hot weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency.

TCPA endorsed the general objective of clauses (e)(2)(A)(iv) and (e)(2)(B)(iv) but commented that the imposed requirements are overly-prescriptive as meetings may be inefficient means of communication. Instead, TCPA recommended revising (e)(2)(A)(iv) and (e)(2)(B)(iv) to generally require that generators have a plan for communicating lessons learned with relevant personnel and to ensure adequate supplies and staffing for emergencies. Consistent with its recommendations for

(e)(1)(A)(iii) and (e)(1)(B)(iii), TPPA recommended modifying this provision to only require pre-event meetings when feasible.

Commission Response

The commission declines to adopt the specific recommendations of TCPA and TPPA for proposed clauses (e)(2)(A)(iv) and (e)(2)(B)(iii) and instead deletes both clauses. This change corresponds with a revision and consolidation of (e)(2)(A) and (e)(2)(B) to include, in the required checklist for generation resource personnel, lessons learned from past responses to a cold or hot weather emergency. The commission maintains these changes substantially address the concerns of commenters.

Proposed §25.53(e)(2)(G) and (e)(2)(H) – Cybersecurity Annex and Physical Security Annex (Generation)

Proposed subparagraphs (e)(2)(G) and (H) require an electric cooperative, an electric utility, a municipally owned utility, or a PGC to include in its EOP for its generation resources a cybersecurity and physical security annex.

Consistent with its recommendations for clauses (e)(1)(G) and (e)(1)(H), AEP and SPS opposed the inclusion of (e)(2)(G) and (e)(2)(H) and recommended the provisions be removed from the proposed rule due to pre-existing regulation and monitoring as well as confidentiality concerns.

Enbridge opposed the inclusion of proposed subparagraphs (e)(2)(G) and (e)(2)(H) and recommended the provisions be removed. Like SPS, Enbridge cited that “disclosure of the

[cybersecurity and physical security] policies and protections outside of an entity's secure network represents an inherent threat to the life, property, and systems required to operate generation resources safely and reliably." As an alternative, Enbridge recommended the commission change the requirement that entities "confirm their policies are aligned to leading industry standards and guidelines" such as from the National Institute of Standards and Technology, the Department of Homeland Security, and the International Organization of Standardization. Enbridge provided draft language consistent with its recommendation for each subparagraph to only confirm the existence of a cybersecurity and physical security annex without disclosing either, an assurance that both annexes are incorporated into the entity's broader EOP, and that relevant staff are trained annually on each.

Commission Response

The commission acknowledges the sensitivity of cyber and physical security annexes and agrees with the disclosure and confidentiality concerns of SPS, AEP, and Enbridge. As discussed under heading (c), the commission revises the rule to require an entity to file a summary of the EOP with citations identifying where the entity's plan addresses the rule's minimum requirements, including cyber and physical security annexes and a complete, redacted version of the plan with the confidential portions removed. The rule does not require an entity to develop emergency procedures that might conflict with existing NERC regulatory standards but does provide the commission the opportunity to review and analyze those plans as part of preparing its report to the Legislature.

Proposed §25.53(e)(4) – Required ERCOT Annexes

Proposed paragraph (e)(4) requires ERCOT to include a pandemic annex, weather emergency annex, hurricane annex, a cybersecurity annex, a physical security annex, and any additional annexes as needed or appropriate under proposed subparagraphs (e)(4)(A) through (e)(4)(F), respectively.

TPPA recommended that any annex required of an entity's EOP under the proposed rule also be required of ERCOT's EOP, including the requirement of pre- (where feasible) and post-weather emergency meetings and a wildfire annex.

Commission Response

The commission disagrees with TPPA that every EOP requirement should apply equally to ERCOT. ERCOT plays a unique role in the management of the grid and it is unclear why ERCOT should be required to file each of the annexes required of other entities. For example, ERCOT does not serve load and, therefore, does not need a load shed annex.

Proposed §25.53(f) – Drills

Proposed subsection (f) requires an entity to conduct annual drills to test and subsequently assess its EOP's effectiveness if the EOP has not been activated in response to an incident within the last twelve months. Entities must notify commission staff of the planned annual drill at least 30 days prior of at least one drill each year, in the form and manner prescribed by the commission and appropriate TDEM District Coordinators. Additionally, subsection (f) requires an entity that operates in a hurricane evacuation zone to test its hurricane annex annually.

CenterPoint, Oncor, and TNMP commented that the language in subsection (f) regarding the 12-month drill requirement is ambiguous in its applicability. CenterPoint and Oncor provided draft language for proposed subsection (f) specifying that the requirement is “per calendar year.”

Commission Response

The commission agrees with CenterPoint, Oncor, and TNMP that the annual drill requirement under proposed subsection (f) should be unambiguous and adopts Oncor and TNMP’s draft language regarding the same as it best effectuates the intent of the rule to ensure an EOP is either utilized or drilled at least once each calendar year.

City of Houston recommended that drills required under subsection (f) should be coordinated with drills by applicable local governments or agencies affected by or noted in the EOP and annex prior to the execution of the drill to ensure coordination and communication between such organizations.

Commission Response

An entity is not prohibited from coordinating drills with other local entities, but the commission declines to adopt City of Houston’s recommendation to require them to do so. The commission agrees that coordination with local entities is important and addresses this topic in adopted paragraph (d)(2), as discussed under heading (d)(5), which requires an EOP to include a communications plan for communicating with, among other organizations, local governments, and in proposed subsection (f) which requires entities to coordinate with

appropriate TDEM District Coordinators following annual drills or implementation of an EOP.

TPPA commented the drills required under proposed subsection (f) are outside of the scope of Tex. Util. Code §186.007 which, in TPPA's view, is intended to "improve EOP filings with the commission to ensure transparency and a common working understanding among all parties involved in an emergency." TPPA recommended the commission modify the proposed rule to more closely reflect the relevant statutory provisions and delete proposed subsection (f). Alternatively, TPPA recommended that proposed subsection (f) exempt MOUs as it conflicts with the commission's limited jurisdiction over MOUs under PURA §40.004. As a further alternative, TPPA requested the commission clarify what exercises constitute a "drill" as the term is ambiguous. TEC similarly recommended that an electric cooperative that does not operate a transmission facility or generation resource be exempt from the requirements of subsection (f) and instead require electric cooperatives to submit a summary of its drilling plans.

Commission Response

The commission disagrees with TPPA and TEC's requests to limit the application of proposed subsection (f) to certain entities. Tex. Util. Code §186.007 requires the commission to evaluate the preparedness of the industry to respond to emergencies. The commission requires all affected entities listed under adopted subsection (a) to conduct a drill as a means to self-evaluate its own level of preparedness, the results of which are reflected in material changes to the EOP filed with the commission.

In response to TPPA's request for clarification on what constitutes a drill, the commission does not prescribe specific requirements for drills, beyond requiring them to be operations-based. An entity should use its best judgment in determining what type of exercise appropriately tests its operational preparedness.

EPEC commented that, in order to comply with subsection (f), a utility may need to increase the number and types of drills, which would require time to develop and implement. As such, EPEC recommended the April 1, 2022 date of compliance under proposed paragraph (c)(1) be extended.

Commission Response

The commission disagrees with EPEC's request for an extended compliance period past the April 15, 2022, initial filing deadline. The commission requires sufficient time to thoroughly review and evaluate existing EOPs. Moreover, the commission notes that an entity is not required to conduct a drill by April 15, 2022. An entity is required to conduct a drill annually and attest that it has completed all required drills. If the required annual drill is completed after April 15, 2022, its completion can be attested to in subsequent annual filings.

OPUC endorsed requiring annual drills to assess the effectiveness of utilities' EOPs. However, OPUC argued that 12 months is a significant length of time to allow an un-tested EOP to remain in place and recommended that if a utility files a new EOP or updates a pre-existing EOP, the utility must conduct a drill within three months of filing. OPUC provided draft language consistent with its recommendation.

Commission Response

The commission disagrees with OPUC on the need for a new or updated EOP to conduct a drill on a shortened timeline. The requirement to conduct a drill on an EOP within the calendar year is sufficient and requiring more frequent drilling could unintentionally overburden an entity that is making a diligent effort to keep its EOP up to date.

SPS recommended that the term “emergency” replace the use of the word “incident” in subsection (f) for consistency with the rule as a whole and provided draft language for the same.

Commission Response

The commission agrees with SPS that replacing the term “incident” with the defined term “emergency” better clarifies the intention of this language in subsection (f) and makes the change.

Proposed §25.53(g) – Reporting Requirements

Proposed subsection (g) requires entities upon activation of the State Operations Center by TDEM and subsequent request by commission staff, to provide updates on the status of operations, outages, and restoration efforts until all incident-related outages are restored or unless otherwise notified by commission staff. Additionally, subsection (g) permits commission staff to request, at their discretion, an after action or lessons learned report to be filed by an affected entity by a certain date.

CenterPoint, ETEC, and SPS all recommended similar changes to proposed subsection (g). CenterPoint recommended changing the heading of subsection (g) from “Reporting Requirements” to “Emergency contacts and status updates during an emergency” to more accurately describe the contents of the subsection and to minimize confusion with other reporting requirements required under proposed §25.53. Additionally, consistent with their recommendations for the deletion of paragraph (d)(3), CenterPoint and SPS recommended moving the emergency contact requirement of paragraph (d)(3) to subsection (g). SPS further specified that the dissemination of such information from a utility to the commission be done through an electronic internet portal or other secure mechanism.

Commission Response

The commission disagrees with CenterPoint on changing the heading for subsection (g) as the current title adequately encompasses the purpose of the subsection. The commission also declines to move the emergency contact requirement of proposed paragraph (d)(3) into subsection (g) per CenterPoint and SPS’s recommendation as that requirement has been moved to subsection (c)(4) as a filing separate from the EOP.

CenterPoint and ETEC recommended deletion of the last sentence of subsection (g) which allows commission staff to request an after action or lessons learned report from an affected entity by a certain date. CenterPoint stated that the sentence is unnecessary given the requirement in proposed subparagraph (c)(1)(C) for utilities to file annual reports and based on PURA §§14.201-14.207, which permit commission staff to request these reports on a more frequent basis.

ETEC also asserted that the last sentence of proposed subsection (g) regarding entity reporting requirements, which requires entities to file an after-action report be filed by an entity if directed to do so by the commission staff, was “redundant” as after-action reports are required for all events under proposed subparagraph (c)(1)(C). As such, ETEC also suggested deleting this reporting requirement from proposed subparagraph (c)(1)(C).

Commission Response

The commission also disagrees with CenterPoint and ETEC on removing the last sentence of subsection (g), which requires after-action and lessons learned reports from entities to be submitted with the commission after an emergency. The commission maintains that to effectuate the intent of the proposed rulemaking, commission staff must be able to require an entity to file documents relevant to emergency preparedness. It is foreseeable that emergency status updates, after action reports, or lessons learned reports may not be filed by entities as required under proposed subsection (c) or elsewhere in the proposed rule. Therefore, it is necessary for commission staff to retain discretionary authority to request updates or reports from entities as such documents are necessary for comprehensive emergency preparedness. The commission has also made the after-action reporting requirement less onerous by permitting a summary and redacted version of the EOP to be filed with the commission as discussed under headings (c), (c)(1), and (c)(1)(A) as well as deleting the separate after-action reporting requirement under heading (c)(1)(C) relating to the same.

SPS recommended, consistent with its recommendations and concerns regarding utility discretion in planning and for paragraph (c)(4) and comments on supplemental reporting for proposed paragraphs (d)(1) through (d)(4), if its recommendations for paragraph (b)(3) defining the term “Emergency” are not accepted by the commission, that events for which after action or lessons learned reporting is required be limited to instances where an emergency has been declared by “a local, state, or federal government; ERCOT; or a Reliability Coordinator that is applicable to the entity.” SPS maintained that such a change ensures reporting is “appropriately scoped to target events that present a credible risk to the continuity of service” and are only classified as an emergency “if the circumstances are of sufficient magnitude that emergency conditions are declared by entities empowered to coordinate regional or state-wide responses to such event.” SPS provided draft language consistent with its recommendation.

Commission Response

The commission agrees with SPS regarding to what constitutes an emergency, however, declines to adopt SPS’ specific language for subsection (g) as SPS’ concerns are substantially addressed by the commission’s amendments to other rule provisions. Specifically, the revisions to the definition of “emergency” under adopted paragraph (b)(3), the movement of the emergency contacts requirement to adopted (c)(4)(B) as a filing separate from the EOP, and that documents under paragraph (c)(4) may be filed confidentially. Therefore, SPS’ recommendations for subsection (g) are unnecessary.

Consistent with its comments regarding procedural rights and recommendations regarding subparagraphs (c)(4)(A) and (c)(4)(B), TCPA highlighted its due process concerns with the last

sentence of the subsection permitting permission staff to request action or lessons learned reports and file them with the commission by a specific date. TCPA argued that this sentence should be revised to specify that the commission, not commission staff, may require such reporting. TCPA noted that this recommendation is only for the reporting requirement in subsection (g), “as it would be inefficient and potentially infeasible to produce a commission order for the in-event updates contemplated in the first part of subsection (g).” TCPA stated that, if its proposal is adopted by the commission, commission orders generally provide deadlines for response, and as such the date specification in the last sentence of (g) should be deleted. Similarly, TPPA argued that requests for after action or lessons learned reports are proper only from the commission, not its staff. TPPA further commented that any additional reporting requirements such as those contemplated by subsection (f) should be considered extraneous to the EOP itself for purposes of filing the EOP.

Commission Response

The commission disagrees with TCPA and TPPA that proposed subsection (g) poses a threat to the constitutional due process rights of entities and that commission staff do not have the authority to request EOP updates under subsection (g) or changes as stated elsewhere in the rule. The commission has substantively addressed these concerns under the General Comment heading and headings (c)(4) and (d)(5).

Oncor and TNMP recommended that subsection (g) be revised to clarify that once “service has been restored to all customers capable of receiving service,” updates from the utility to the commission are no longer required. Oncor and TNMP elaborated that providing continuous updates on restoration activities for customers unable to receive electric service, potentially for

weeks or months, is unlikely to benefit those customers or the commission. Oncor and TNMP provided identical draft language consistent with their recommendations.

Commission Response

The commission agrees with Oncor and TNMP that the language in proposed subsection (g) should be revised to clarify that updates should only be issued until service is restored to customers capable of receiving service. The commission modifies the adopted rule accordingly.

TEC noted that the current version of the reporting requirements that appears in proposed subsection (g) applies only to “affected” entities during an activation of the State Operations Center (SOC) by TDEM. TEC suggested the term “affected” remain in the proposed rule to avoid situations where a utility may be required to report to commission staff when it or its customers are entirely unaffected by an emergency event, such as a utility located in the Panhandle being forced to report during a hurricane in the Gulf of Mexico.

Commission Response

The commission agrees with TEC’s recommendation and adds language to subsection (g) clarifying the applicability to affected entities.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this rule, the commission makes other minor modifications for the purpose of clarifying its intent.

The rule is adopted under the following provisions of PURA §14.001, which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which provides the commission with the authority to make, adopt, and enforce rules reasonably required in the exercise of its powers and jurisdiction. The rule is also adopted under Tex. Util. Code §186.007, which requires the commission to analyze the EOPs developed by electric utilities, power generation companies, municipally owned utilities, and electric cooperatives that operate generation facilities in this state, and retail electric providers; prepare a weather emergency preparedness report; and require entities to submit updated EOPs if the EOP on file does not contain adequate information to determine whether the entity can provide adequate electric services.

Cross reference to statutes: PURA §14.002 and Tex. Util. Code §186.007

§25.53. Electric Service Emergency Operations Plans.

- (a) **Application.** This section applies to an electric utility, transmission and distribution utility, power generation company (PGC), municipally owned utility, electric cooperative, and retail electric provider (REP), and to the Electric Reliability Council of Texas (ERCOT).
- (b) **Definitions.**
- (1) **Annex** -- a section of an emergency operations plan that addresses how an entity plans to respond in an emergency involving a specified type of hazard or threat.
 - (2) **Drill** -- an operations-based exercise that is a coordinated, supervised activity employed to test an entity's EOP or a portion of an entity's EOP. A drill may be used to develop or test new policies or procedures or to practice and maintain current skills.
 - (3) **Emergency** -- a situation in which the known, potential consequences of a hazard or threat are sufficiently imminent and severe that an entity should take prompt action to prepare for and reduce the impact of harm that may result from the hazard or threat. The term includes an emergency declared by local, state, or federal government, or ERCOT or another reliability coordinator designated by the North American Electric Reliability Corporation and that is applicable to the entity.
 - (4) **Entity** -- an electric utility, transmission and distribution utility, PGC, municipally owned utility, electric cooperative, REP, or ERCOT.
 - (5) **Hazard** -- a natural, technological, or human-caused condition that is potentially dangerous or harmful to life, information, operations, the environment, or property, including a condition that is potentially harmful to the continuity of electric service.

- (6) **Threat** -- the intention and capability of an individual or organization to harm life, information, operations, the environment, or property, including harm to the continuity of electric service.

(c) **Filing requirements.**

- (1) An entity must file an emergency operations plan (EOP) and executive summary under this section by April 15, 2022. Notwithstanding the foregoing, a municipally owned utility must provide its EOP and executive summary in the manner prescribed by the commission in this paragraph no later than June 1, 2022. Each individual entity is responsible for compliance with the requirements of this section. An entity filing a joint EOP or other joint document under this section on behalf of one or more entities over which it has control is jointly responsible for each entity's compliance with the requirements of this section.

(A) An entity must file with the commission:

- (i) an executive summary that:
 - (a) describes the contents and policies contained in the EOP;
 - (b) includes a reference to specific sections and page numbers of the entity's EOP that correspond with the requirements of this rule;
 - (c) includes the record of distribution required under subparagraph (c)(4)(A) of this section; and
 - (d) contains the affidavit required under subparagraph (c)(4)(C) of this section.

- (ii) A complete copy of the EOP with all confidential portions removed.
- (B) For an entity with operations within the ERCOT power region, the entity must submit its unredacted EOP in its entirety to ERCOT.
- (C) ERCOT must designate an unredacted EOP submitted by an entity as Protected Information under the ERCOT Protocols.
- (D) An entity must make its unredacted EOP available in its entirety to commission staff on request at a location designated by commission staff.
- (E) An entity may file a joint EOP on behalf of itself and one or more other entities over which it has control provided that:
 - (i) the executive summary required under subparagraph (c)(1)(A)(i) of this section identifies which sections of the joint EOP apply to each entity; and
 - (ii) the joint EOP satisfies the requirements of this section for each entity as if each entity had filed a separate EOP.
- (F) An entity filing a joint EOP under subparagraph (E) of this paragraph may also jointly file one or more of the documents required under paragraph (4) of this subsection provided that each joint document satisfies the requirements for each entity to which the document applies.
- (G) An entity that is required to file similar annexes for different facility types under subsection (e) of this section, such as a pandemic annex for both generation facilities and transmission and distribution facilities, may file a single combined annex addressing the requirement for multiple facility

types. The combined annex must conspicuously identify the facilities to which it applies.

- (2) A person seeking registration as a PGC or certification as a REP must meet the filing requirements under subparagraph (c)(1)(A) of this section at the time it applies for registration or certification with the commission and must submit the EOP to ERCOT if it will operate in the ERCOT power region, no later than ten days after the commission approves the person's registration or certification.
- (3) An entity must continuously maintain its EOP. Beginning in 2023, an entity must annually update information included in its EOP no later than March 15 under the following circumstances:
 - (A) An entity that in the previous calendar year made a change to its EOP that materially affects how the entity would respond to an emergency must:
 - (i) file with the commission an executive summary that:
 - (a) describes the changes to the contents or policies contained in the EOP;
 - (b) includes an updated reference to specific sections and page numbers of the entity's EOP that correspond with the requirements of this rule;
 - (c) includes the record of distribution required under subparagraph (c)(4)(A) of this section; and
 - (d) contains the affidavit required under subparagraph (c)(4)(C) of this section.

- (ii) file with the commission a complete, revised copy of the EOP with all confidential portions removed; and
 - (iii) submit to ERCOT its revised unredacted EOP in its entirety if the entity operates within the ERCOT power region.
- (B) An entity that in the previous calendar year did not make a change to its EOP that materially affects how the entity would respond to an emergency must file with the commission:
 - (i) a pleading that documents any changes to the list of emergency contacts as provided under subparagraph (c)(4)(B) of this section;
 - (ii) an attestation from the entity's highest-ranking representative, official, or officer with binding authority over the entity stating the entity did not make a change to its EOP that materially affects how the entity would respond to an emergency; and
 - (iii) the affidavit described under subparagraph (c)(4)(C) of this section.
- (C) An entity must update its EOP or other documents required under this section if commission staff determines that the entity's EOP or other documents do not contain sufficient information to determine whether the entity can provide adequate electric service through an emergency. If directed by commission staff, the entity must file its revised EOP or other documentation, or a portion thereof, with the commission and, for entities with operations in the ERCOT power region, with ERCOT.
- (D) ERCOT must designate any revised unredacted EOP submitted by an entity as Protected Information under the ERCOT Protocols.

- (E) An entity must make a revised unredacted EOP available in its entirety to commission staff on request at a location designated by commission staff.
 - (F) The requirements for joint and combined filings under paragraph (c)(1) of this section apply to revised joint and revised combined filings under this paragraph.
- (4) In accordance with the deadlines prescribed by paragraphs (1) and (3) of this subsection, an entity must file with the commission the following documents:
- (A) A record of distribution that contains the following information in table format:
 - (i) titles and names of persons in the entity's organization receiving access to and training on the EOP; and
 - (ii) dates of access to or training on the EOP, as appropriate.
 - (B) A list of primary and, if possible, backup emergency contacts for the entity, including identification of specific individuals who can immediately address urgent requests and questions from the commission during an emergency.
 - (C) An affidavit from the entity's highest-ranking representative, official, or officer with binding authority over the entity affirming the following:
 - (i) relevant operating personnel are familiar with and have received training on the applicable contents and execution of the EOP, and such personnel are instructed to follow the applicable portions of the EOP except to the extent deviations are appropriate as a result of specific circumstances during the course of an emergency;

- (ii) the EOP has been reviewed and approved by the appropriate executives;
 - (iii) drills have been conducted to the extent required by subsection (f) of this section;
 - (iv) the EOP or an appropriate summary has been distributed to local jurisdictions as needed;
 - (v) the entity maintains a business continuity plan that addresses returning to normal operations after disruptions caused by an incident; and
 - (vi) the entity's emergency management personnel who are designated to interact with local, state, and federal emergency management officials during emergency events have received the latest IS-100, IS-200, IS-700, and IS-800 National Incident Management System training.
- (5) Notwithstanding the other requirements of this subsection, ERCOT must maintain its own current EOP in its entirety, consistent with the requirements of this section and available for review by commission staff.
- (d) **Information to be included in the emergency operations plan.** An entity's EOP must address both common operational functions that are relevant across emergency types and annexes that outline the entity's response to specific types of emergencies, including those listed in subsection (e) of this section. An EOP may consist of one or multiple documents. Each entity's EOP must include the information identified below, as applicable. If a

provision in this section does not apply to an entity, the entity must include in its EOP an explanation of why the provision does not apply.

- (1) An approval and implementation section that:
 - (A) introduces the EOP and outlines its applicability;
 - (B) lists the individuals responsible for maintaining and implementing the EOP, and those who can change the EOP;
 - (C) provides a revision control summary that lists the dates of each change made to the EOP since the initial EOP filing pursuant to paragraph (c)(1) of this section;
 - (D) provides a dated statement that the current EOP supersedes previous EOPs; and
 - (E) states the date the EOP was most recently approved by the entity.
- (2) A communication plan.
 - (A) An entity with transmission or distribution service operations must describe the procedures during an emergency for handling complaints and for communicating with the public; the media; customers; the commission; the Office of Public Utility Counsel (OPUC); local and state governmental entities, officials, and emergency operations centers, as appropriate in the circumstances for the entity; the reliability coordinator for its power region; and critical load customers directly served by the entity.
 - (B) An entity with generation operations must describe the procedures during an emergency for communicating with the media; the commission; OPUC; fuel suppliers; local and state governmental entities, officials, and

emergency operations centers, as appropriate in the circumstances for the entity; and the applicable reliability coordinator.

- (C) A REP must describe the procedures for communicating during an emergency with the public, media, customers, the commission, and OPUC, and the procedures for handling complaints during an emergency.
- (D) ERCOT must describe the procedures for communicating, in advance of and during an emergency, with the public, the media, the commission, OPUC, governmental entities and officials, the state emergency operations center, and market participants.
- (3) A plan to maintain pre-identified supplies for emergency response.
- (4) A plan that addresses staffing during emergency response.
- (5) A plan that addresses how an entity identifies weather-related hazards, including tornadoes, hurricanes, extreme cold weather, extreme hot weather, drought, and flooding, and the process the entity follows to activate the EOP.
- (6) Each relevant annex, as detailed in subsection (e) of this section and other annexes applicable to an entity.

(e) **Annexes to be included in the emergency operations plan.**

- (1) An electric utility, a transmission and distribution utility, a municipally owned utility, and an electric cooperative must include in its EOP for its transmission and distribution facilities the following annexes:
 - (A) A weather emergency annex that includes:

- (i) operational plans for responding to a cold or hot weather emergency, distinct from the weather preparations required under §25.55 of this title (relating to Weather Emergency Preparedness); and
 - (ii) a checklist for transmission or distribution facility personnel to use during cold or hot weather emergency response that includes lessons learned from past weather emergencies to ensure necessary supplies and personnel are available through the weather emergency.
- (B) A load shed annex that must include:
 - (i) Procedures for controlled shedding of load;
 - (ii) Priorities for restoring shed load to service; and
 - (iii) A procedure for maintaining an accurate registry of critical load customers, as defined under 16 TAC §25.5(22) of this title (relating to Definitions), §25.52(c)(1) and (2) of this title (relating to Reliability and Continuity of Service) and §25.497 of this title (relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers), and TWC §13.1396 (relating to Coordination of Emergency Operations), directly served, if maintained by the entity. The registry must be updated as necessary but, at a minimum, annually. The procedure must include the processes for providing assistance to critical load customers in the event of an unplanned outage, for communicating with critical load customers during an emergency, coordinating with government and

service agencies as necessary during an emergency, and for training staff with respect to serving critical load customers.

- (C) A pandemic and epidemic annex;
 - (D) A wildfire annex;
 - (E) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by the Texas Division of Emergency Management (TDEM);
 - (F) A cyber security annex;
 - (G) A physical security incident annex;
 - (H) A transmission and distribution utility that leases or operates facilities under PURA §39.918(b)(1) or procures, owns, and operates facilities under PURA §39.918(b)(2) must include an annex that details its plan for the use of those facilities; and
 - (I) Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (2) An electric cooperative, an electric utility, or a municipally owned utility that operate a generation resource in Texas; and a PGC must include the following annexes for its generation resources other than generation resources authorized under PURA §39.918:
- (A) A weather emergency annex that includes:
 - (i) operational plans for responding to a cold or hot weather emergency, distinct from the weather preparations required under §25.55 of this title;

- (ii) verification of the adequacy and operability of fuel switching equipment, if installed; and
 - (iii) a checklist for generation resource personnel to use during a cold or hot weather emergency response that includes lessons learned from past weather emergencies to ensure necessary supplies and personnel are available through the weather emergency.
 - (B) A water shortage annex that addresses supply shortages of water used in the generation of electricity;
 - (C) A restoration of service annex that identifies plans intended to restore to service a generation resource that failed to start or that tripped offline due to a hazard or threat;
 - (D) A pandemic and epidemic annex;
 - (E) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
 - (F) A cyber security annex;
 - (G) A physical security incident annex; and
 - (H) Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (3) A REP must include in its EOP the following annexes:
- (A) A pandemic and epidemic annex;

- (B) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
 - (C) A cyber security annex;
 - (D) A physical security incident annex; and
 - (E) Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (4) ERCOT must include the following annexes:
 - (A) A pandemic and epidemic annex;
 - (B) A weather emergency annex that addresses ERCOT's plans to ensure continuous market and grid management operations during weather emergencies, such as tornadoes, wildfires, extreme cold weather, extreme hot weather, and flooding;
 - (C) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
 - (D) A cyber security annex;
 - (E) A physical security incident annex; and
 - (F) Any additional annexes as needed or appropriate to ERCOT's particular circumstances.
- (f) **Drills.** An entity must conduct or participate in at least one drill each calendar year to test its EOP. Following an annual drill the entity must assess the effectiveness of its emergency

response and revise its EOP as needed. If the entity operates in a hurricane evacuation zone as defined by TDEM, at least one of the annual drills must include a test of its hurricane annex. An entity conducting an annual drill must, at least 30 days prior to the date of at least one drill each calendar year, notify commission staff, using the method and form prescribed by commission staff on the commission's website, and the appropriate TDEM District Coordinators, by email or other written form, of the date, time, and location of the drill. An entity that has activated its EOP in response to an emergency is not required, under this subsection, to conduct or participate in a drill in the calendar year in which the EOP was activated.

- (g) **Reporting requirements.** Upon request by commission staff during an activation of the State Operations Center by TDEM, an affected entity must provide updates on the status of operations, outages, and restoration efforts. Updates must continue until all incident-related outages of customers able to take service are restored or unless otherwise notified by commission staff. After an emergency, commission staff may require an affected entity to provide an after action or lessons learned report and file it with the commission by a date specified by commission staff.

This agency certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.53, electric service emergency operations planning, is hereby adopted with changes to the text as proposed.

Signed at Austin, Texas the 25th day of February 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER

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